

FINAL STATEMENT OF REASONS (FSOR)

**California Code of Regulations
TITLE 19. Public Safety
DIVISION 1. State Fire Marshal
CHAPTER 14. Hazardous Liquid Pipeline Safety
Article 3. Fees**

**For
INTRASTATE HAZARDOUS LIQUID PIPELINE OPERATORS AND PER MILE
OF INTRASTATE HAZARDOUS LIQUID PIPELINES**

UPDATE OF INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons (ISOR), released September 3, 2021, is incorporated by reference herein, and contained a description of the rationale for the adoption of the proposed regulations. On September 3, 2021, all documents relied upon and referenced in the ISOR were made available to the public.

The Office of the State Fire Marshal (OSFM) received one (1) public comment on the text as originally noticed during the 45-day comment period. Upon review and consideration of the comments received, the OSFM determined that modification to the text of the regulations was unnecessary.

The OSFM has considered all relevant matters presented to it and recommends approval of the proposed regulatory action.

PUBLIC COMMENT PERIOD

The original text of the proposed regulations was made available to the public for 45 days from September 3, 2021 through October 18, 2021. No public hearings were requested or held for the proposed regulations and no changes to the text of the regulations were warranted.

SMALL BUSINESS EFFECTS

The OSFM has determined that the proposed regulations have no “substantial” effect to small business and the OSFM has not identified any alternatives that would lessen any adverse impact on small business and still allow the OSFM to effectively enforce the regulations.

Additionally, Government Code Section 11342.610(b)(9) excludes a petroleum producer, a natural gas producer, a refiner, or a pipeline from the definition of a “small business.”

CONSIDERATION OF ALTERNATIVES

For the reasons set forth in the ISOR, and staff's responses to comments received during public comment, and this Final Statement of Reasons (FSOR), the OSFM has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective as and less burdensome to affected private persons, or would be more cost-effective to affected persons and equally effective in implementing the statutory policy or other provisions of the law than the action taken by the OSFM.

ALTERNATIVES TO THE REGULATION

The OSFM invited interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the public comment period. Two additional alternatives were proposed based on the Minnesota Office of Pipeline Safety and the Washington Utilities and Transportation Commission's Pipeline Safety Program. Evaluation of these alternatives was considered and further discussed in the response to comments received. However, the alternatives were ultimately rejected because none of the proposed alternatives would lessen any adverse economic impact on small business.

ALTERNATIVES DETERMINATION

In accordance with Government Code section 11346.9(a)(4), the OSFM has thoroughly reviewed this proposed regulatory action, including both the positive and negative impacts it will place upon the industry. No alternatives considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would they be as effective as and less burdensome to affected private persons or businesses than the proposed action, and more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The OSFM did not consider any other reasonable alternatives to be less burdensome to businesses in carrying out the purposes of the proposed regulation beyond that previously identified in the Initial Statement of Reasons.

LOCAL MANDATE DETERMINATION

The OSFM has determined that this regulatory action will not result in a mandate to any local agencies or school districts pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code. Additionally, the regulatory action will not result in a mandate because the enabling statute found in subsection 2 of 51013.1, Part 1, Division 1, Title 5 of the Government Code creates, eliminates, or changes the penalty for a new crime or infraction contained therein.

COORDINATION WITH FEDERAL LAW

The OSFM has determined that this proposed regulatory action neither conflicts with, nor duplicates, any federal regulation contained in the Code of Federal Regulations

AMENDMENTS TO THE INITIAL STATEMENT OF REASONS (ISOR) FACTUAL BASIS/RATIONALE

Since the publication of the ISOR there was a non-substantive change to past revenue received. The OSFM now projects anticipated fee revenue for FY 2021/2022 of approximately \$3.38 million versus 3.34 million. This revised number is an increase in the anticipated fee revenue of \$40,000. Also, with the proposed fee increase, FY 2022/2023 revenue is projected to be \$7.51 million versus 7.8 million. This revised number is a decrease in fee revenue of \$290,000. As stated in the ISOR, the fee adjustment targets pipeline mileage trends that vary year to year with a general reduction in mileage as old pipelines are taken out of service and are not replaced. Additionally, the number of operators has been decreasing because of company mergers. The proposed regulations target these two observed trends and should negate the need for fee revisions for the foreseeable future.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING 45-DAY COMMENT PERIOD

The OSFM accepted public comments beginning September 3, 2021 through October 18, 2021. The OSFM received one (1) public comment from an industry trade group during the 45-Day comment period. A subsequent comment was received on October 26, 2021, after the close of the public comment period, and was not considered. However, the late submission posed striking similarities to the timely submitted comment and therefore OSFM's responses will cover both comments received.

After considering the comments received, the OSFM determined that modification to the text of the regulations was unnecessary. **A summary of the comments and responses are included in "Attachment A".**

Comment Written (W) Oral (O)	Organization, Commenter, Title, Letter/Public Comment Date
W 1	Western States Petroleum Association, Ben Oakley, California Coastal Region Manager

Set forth in "Attachment A" is a summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. Only objections or recommendations directed at the agency's proposed action or the procedures followed by the agency in proposing or adopting the action are summarized as permitted by Government Code, Title 2, Section 11346.9. Repetitive or irrelevant comments have been aggregated and summarized as a group. A comment is "irrelevant" if it is not specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action. The comments have been grouped by topic whenever applicable.